

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

ANGELA TORRES,
LLC,
Plaintiff,
vs.
ALIREZA ZAMANIZADEH,
et al. Oregon
Defendants.

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) 3:17-cv-01270-AC
)
) January 19, 2018
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TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE MICHAEL H. SIMON
UNITED STATES DISTRICT COURT JUDGE

1 APPEARANCES

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3 FOR THE PLAINTIFF: David W. Richardson
4 PDX Law Group PC
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6 FOR THE DEFENDANTS: Timothy L. Calderbank
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22 COURT REPORTER: Dennis W. Apodaca, RDR, FCRR, CRR
23 United States District Courthouse
1000 SW Third Avenue, Room 301
Portland, OR 97204
24 (503) 326-8182

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1 (January 19, 2018)

2 P R O C E E D I N G S

3 (Open court:)

4 THE CLERK: Your Honor, this is the time set
5 for oral argument in civil case No. 17-cv-1270-AC, Torres
6 versus Zamanizadeh.

7 Would counsel in court, please, identify
8 yourselves for the record.

9 MR. RICHARDSON: David Richardson, Your Honor.

10 THE COURT: Welcome.

11 MR. CALDERBANK: Tim Calderbank, Your Honor.

12 THE COURT: Welcome.

13 All right. On January 10th, I issued, at
14 plaintiff's request, a temporary restraining order
15 ex parte. That was Docket 15, and we set this day for
16 the hearing on whether or not it should be extended to a
17 preliminary injunction for the balance of the case on
18 plaintiff's motion. I have not seen any written
19 opposition by defendant to extending this.

20 Did I miss something, Mr. Calderbank?

21 MR. CALDERBANK: You did not, Your Honor. We
22 have depositions from my client and his other attorney
23 who has been helping him with the investigation by the
24 Department of Justice, and we are prepared to submit
25 those to the Court in opposition to the request for the

1 preliminary injunction.

2 We do have a matter for the Court. Counsel and
3 I were just discussing some issues out in the hallway, as
4 attorneys will do sometimes, and we might have a possible
5 avenue to a settlement without further need of the
6 Court's assistance.

7 THE COURT: Okay. How can I be of assistance?

8 MR. CALDERBANK: In that regard, we were hoping
9 to possibly have a two-week set-over for this particular
10 hearing while the attorneys and obviously the parties get
11 together to discuss a possible settlement.

12 I'm at a little bit of a disadvantage because I
13 was helping Mr. Zamanizadeh and the adult care entity,
14 just with the matter that was first started over in
15 Vancouver, Washington, and I had it transferred over to
16 this court. I really haven't done much more beyond that
17 other than to talk with Mr. Richardson about a possible
18 settlement, but with all the fine particulars of
19 Adult Care Search and the other entities, I'm not
20 familiar with.

21 So the plan or the framework that we worked out
22 is to spend the next week or two getting the attorneys
23 and the parties together, seeing if we can work out a
24 settlement. And if we can't, we will come back here in
25 two weeks, and we will do this. Hopefully we will be

1 able report that it settled.

2 THE COURT: It sounds to me, and I'll give you
3 my perspective on it, as long as the plaintiff and
4 defense agrees, I'm not going to interfere with that. It
5 seems to me then that the resolution is that the order
6 that I established in my temporary restraining order,
7 Docket 15 that I established and entered on January 10th,
8 that will remain in place for an agreed-upon period of
9 time. Then we will set a hearing for whenever you all
10 tell me you want to set a hearing for.

11 Am I correct?

12 MR. CALDERBANK: The only amendment we would
13 ask is that, not the Adult Care Search entity that is
14 named in the lawsuit, but the related entity,
15 Care Option, has a small amount of money within its bank
16 account that it needs just for operating purposes.
17 Mr. Zamanizadeh would like to have that released just so
18 that he can actually pay some bills and get some bills
19 paid.

20 THE COURT: If the plaintiff agrees with that
21 and has no objection, that's certainly fine with me. I
22 think the way procedurally we should handle that is for
23 me to have the order remain in place on the agreement of
24 the parties. Then any time you want, if you submit to me
25 a stipulated amendment that would allow some fund of

1 money to be used for some purpose, as long as it is
2 stipulated by the plaintiff, I assure you that I'll sign
3 it and enter it.

4 Will that work for the parties?

5 MR. CALDERBANK: That works for the defense,
6 yes.

7 MR. RICHARDSON: Your Honor, if I may. I was
8 shown in the hallway, just on Mr. Zamanizadeh's phone,
9 that there is purportedly \$5,000 remaining in that
10 account. Nothing was briefed. I don't have anything on
11 paper. So I would prefer to not agree to it today, but
12 to wait and have something presented to you, where we
13 agree where is the money actually going, what is it being
14 used for, and how much is really in the account.

15 THE COURT: Let me clarify. You don't have to
16 give me that stipulation now orally. What I would do,
17 right now, I would take everyone's oral agreement that
18 the temporary restraining order shall remain in full
19 force and effect by agreement of the parties, until such
20 and such date, and we will pick a date for the hearing.

21 Then any time you want, Mr. Calderbank can just
22 prepare a written amendment, if you will, or partial
23 relief from the order -- that's probably the best way to
24 phrase it -- a partial relief from the order that allows
25 you to do whatever you are seeking to do.

1 Then if Mr. Richardson, on behalf of the
2 plaintiff, says that he has no objection, you can then
3 represent to me, when you file it, that it is stipulated
4 and that plaintiff has no objection, and then I will
5 enter that order of partial modification.

6 MR. CALDERBANK: That works for the defense.

7 MR. RICHARDSON: That works me, Your Honor, as
8 well, but I do have one point of clarification that
9 Mr. Calderbank and I conferred on, and there was some
10 disagreement that maybe you can shed light on regarding
11 specifically funds that were held in an IOLTA trust
12 account by Mr. Calderbank or by the other attorney who is
13 working with the Department of Justice.

14 The order is, I think on point, but it doesn't
15 specifically list them. It says that he is restrained
16 from spending, transferring, encumbering, or otherwise
17 disposing of funds originating or traceable to my client.

18 I would assume, with no evidence to the
19 contrary, that any money in his IOLTA account probably is
20 traceable to my client's funds based on the declaration
21 that was submitted by the Department of Justice.

22 MR. CALDERBANK: I have no problem freezing any
23 assets in my IOLTA account for this account at all. I
24 have not problem with that at all.

25 THE COURT: Then we have that clarified.

1 I will tell you my practice is, if the two of
2 you disagree about something, I would ask for briefing
3 about it. Then I would consider your briefing, hear your
4 argument, either in person or by telephone, whatever
5 makes the most sense, and I'll give you a ruling. I
6 generally won't give you a ruling based upon a
7 disagreement that you raise for the first time orally.
8 But it sounds like we have agreement on the record on
9 that issue, and so I say good.

10 MR. RICHARDSON: Thank you, Your Honor.

11 MR. CALDERBANK: Thank you, Your Honor.

12 THE COURT: Do you want to set a date for a
13 hearing now or do you just want to let --

14 MR. CALDERBANK: Counsel has some travel plans.
15 I'm pretty wide open. My calendar is free. I think
16 Mr. Zamanizadeh is open. So I think --

17 MR. RICHARDSON: I was hoping for perhaps two
18 weeks from today, just to give us a little more time, but
19 not be too far into the future, and, of course, depending
20 upon your calendar, Your Honor.

21 THE COURT: Two weeks from today is
22 February 2nd. I think I'm leaving town on the 3rd, so
23 that would be fine.

24 Yes. I'm leaving town on the 3rd. It looks
25 like we can give you February 2nd. I will note that that

1 is Groundhog Day, so you're perfectly welcome to make the
2 same arguments over and over.

3 Any particular time you all want?

4 MR. CALDERBANK: Three or four o'clock.

5 THE COURT: Four o'clock on a Friday? Let's do
6 it earlier.

7 MR. CALDERBANK: I live in Corbett, so I try to
8 do the whole --

9 THE COURT: Can I compromise with
10 three o'clock?

11 MR. CALDERBANK: That sounds great.

12 MR. RICHARDSON: Great.

13 THE COURT: Mary, can we do that?

14 THE CLERK: Yes.

15 THE COURT: We will continue the PI hearing
16 until February 2nd at 3:00 p.m.

17 In the meantime, on the agreement of the
18 parties, the temporary restraining order shall continue
19 in full force and effect. Obviously both parties have
20 leave to file any stipulated requests to modify the
21 order, as they wish.

22 Let me also suggest, too, if you do resolve the
23 matter, then obviously you don't need to come here on
24 Friday, February 2nd. Just file your stipulated
25 dismissal or whatever else you would be filing or notify

1 my courtroom deputy that you have resolved the matter,
2 and there is no need for a hearing. But if you want to
3 be here at three o'clock on Friday, February 2nd, we will
4 do what we need to do.

5 If it turns out, by the way, that you can't
6 resolve it and that you're going to have a dispute over
7 something that you want me to resolve on February 2nd,
8 confer with each other and give me an appropriate
9 briefing schedule that at least gets the last brief in my
10 hands two days before that hearing, say 5:00 p.m. on
11 January 31st. So if you can't resolve it, do your
12 briefing. Whatever you agree upon is fine with me,
13 provided I get the last brief by 5:00 p.m. on the 31st.
14 That will give me the 1st to read it. Then we can have
15 our hearing on the 2nd if we have to.

16 Will that work for everyone?

17 MR. RICHARDSON: Yes, Your Honor.

18 MR. CALDERBANK: Yes, Your Honor.

19 THE COURT: Anything else I can help either
20 side with?

21 MR. CALDERBANK: No.

22 MR. RICHARDSON: I don't believe so.

23 THE COURT: Thank you all very much. Good luck
24 to you.

25 (Court adjourned.)

--oOo--

I certify, by signing below, that the foregoing is a correct transcript of the record of proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/ Dennis W. Apodaca

February 23, 2018

DENNIS W. APODACA, RDR, RMR, FCRR, CRR

DATE

Official Court Reporter

<p>MR. CALDERBANK: [14] MR. RICHARDSON: [8] 3/8 6/6 7/6 8/9 8/16 9/11 10/16 10/21 THE CLERK: [2] 3/3 9/13 THE COURT: [15]</p>	<p>al. Oregon [1] 1/8 ALIREZA [1] 1/7 all [7] 3/13 4/18 5/9 7/23 7/24 9/3 10/23 allow [1] 5/25 allows [1] 6/24 also [1] 9/22 Am [1] 5/11 amendment [3] 5/12 5/25 6/22 amount [1] 5/15 ANGELA [1] 1/4 any [7] 3/18 5/24 6/21 7/19 7/22 9/3 9/20 anything [2] 6/10 10/19 Apodaca [3] 2/22 11/10 11/11 APPEARANCES [1] 2/1 appropriate [1] 10/8 are [2] 3/24 6/25 argument [2] 3/5 8/4 arguments [1] 9/2 as [7] 4/3 5/3 5/3 6/1 6/1 7/7 9/21 ask [2] 5/13 8/2 assets [1] 7/23 assistance [2] 4/6 4/7 assume [1] 7/18 assure [1] 6/2 attorney [2] 3/22 7/12 attorneys [3] 4/4 4/10 4/22 avenue [2] 2/23 4/5</p>	<p>compromise [1] 9/9 confer [1] 10/8 conferred [1] 7/9 conformed [1] 11/8 consider [1] 8/3 continue [2] 9/15 9/18 contrary [1] 7/19 Corbett [1] 9/7 correct [2] 5/11 11/6 counsel [3] 3/7 4/2 8/14 course [1] 8/19 court [10] 1/1 1/14 2/22 3/3 3/7 3/25 4/2 4/16 10/25 11/11 Court's [1] 4/6 Courthouse [1] 2/22 courtroom [1] 10/1 CRR [2] 2/22 11/11 cv [2] 1/5 3/5</p>
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<p>3 301 [1] 2/23 31st [2] 10/11 10/13 326-8182 [1] 2/24 3:00 [1] 9/16 3:17-cv-01270-AC [1] 1/5 3rd [2] 8/22 8/24</p>	<p>B back [1] 4/24 balance [1] 3/17 bank [1] 5/15 based [2] 7/20 8/6 be [8] 3/16 4/7 4/25 6/1 8/19 8/23 9/25 10/3 because [1] 4/12 been [1] 3/23 before [2] 1/13 10/10 behalf [1] 7/1 being [1] 6/13 believe [1] 10/22 below [1] 11/5 best [1] 6/23 beyond [1] 4/16 bills [2] 5/18 5/18 bit [1] 4/12 both [1] 9/19 brief [2] 10/9 10/13 briefed [1] 6/10 briefing [4] 8/2 8/3 10/9 10/12 Broadway [1] 2/7</p>	<p>E each [1] 10/8 earlier [1] 9/6 effect [2] 6/19 9/19 either [2] 8/4 10/19 else [2] 9/25 10/19 encumbering [1] 7/16 enter [2] 6/3 7/5 entered [1] 5/7 entities [1] 4/19 entitled [1] 11/7 entity [3] 4/13 5/13 5/14 established [2] 5/6 5/7 et [1] 1/8 everyone [1] 10/16 everyone's [1] 6/17 evidence [1] 7/18 ex [1] 3/15 ex parte [1] 3/15 extended [1] 3/16 extending [1] 3/19</p>
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